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February 13, 2023

Transmitted via ECF

Honorable Denise L. Cote
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Discovery is stayed. Any motion for preliminary approval of the settlement of the class action is due 3/31/23. Denise Cote 2/13/23

Re: Rupnow, et al. v. E*TRADE Securities, LLC, Case No. 1:19-cv-10942-DLC

Dear Judge Cote,

We write jointly on behalf of both named Plaintiffs Joshua Rupnow and Peter Szostak and Defendant E*TRADE Securities LLC (collectively the "Parties"), to respectfully submit this letter motion pursuant to Rule 4(J) of the Court's Individual Practices in Civil Cases requesting an adjournment of the existing case schedule entered by the Court on September 26, 2022, including, among others, the current deadline for the completion of fact discovery by February 24, 2023. Specifically, the parties request a stay of this action as set forth below until Friday, March 31, 2023.

The reason for this Letter Motion is that, after substantial document discovery, lengthy negotiations, and with the assistance of JAMS mediator Peter H. Woodin, Esq. the parties are pleased to inform the Court that they have successfully reached a settlement in principle of this proposed class action litigation, and are currently working diligently to finalize the details of the settlement in writing for presentation to the Court.

Pursuant to Federal Rule of Civil Procedure 26(c), upon a showing of good cause, a district court has considerable discretion to stay discovery. *See Integrated Sys. & Power, Inc. v. Honeywell Int'l, Inc.*, 2009 WL 2777076, at *1 (S.D.N.Y. Sept. 1, 2009). Here, the Parties engaged in private in-person mediation in New York City on January 13, 2023, and through continued negotiations through the mediator in the weeks following the mediation the Parties were able to reach an agreement in principle for resolution and settlement of the claims, including the claims on behalf of the putative class.

Currently, this Court has set scheduling deadlines requiring that all fact discovery must be completed by February 24, 2023, and the deadline for the Plaintiffs to move for class certification is March 10, 2023. *See* ECF. No. 69. With these deadlines currently in place, the Parties have numerous fact witness depositions scheduled in the coming weeks, and without a stay or adjournment the Parties will be required to spend considerable time and costs in meeting these deadlines. Indeed, one of the reasons for the Parties' decision to resolve the litigation is both sides' desire to avoid the significant time, efforts and costs associated with that additional remaining discovery.

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February 13, 2023

Page 2

Accordingly, the Parties submit that sufficient good cause exists to merit an adjournment of the existing case schedule under the circumstances here. The Parties therefore respectfully request that the Court grant this joint Letter Motion, adjourn the current case schedule, and stay this action until March 31, 2023. On or before that date, Plaintiffs intend to submit a motion for preliminary approval of the parties' settlement to the Court.

Counsel for the Parties are available at the Court's convenience to answer any questions the Court may have.

Respectfully submitted,

**PLAINTIFFS PETER SZOSTAK AND
JOSHUA RUPNOW**

By Their Attorneys,

/s/ Kent A. Bronson

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